

REMARKS

Claims 1-56 are pending in the present application. Claims 1-34 and 48-56 were withdrawn from consideration. No claim amendment is made in the present response. Accordingly, claims 35-47 are under examination.

Double Patenting

Claims 35-47 are rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-11 of U.S. Patent No. 7,422,703 in view of Zarling et al. (US 6,537,829) and Miyazono et al. (US 5,759,435). Both U.S. Patent No. 7,422,703 and the present application are co-owned by CapitalBio Corporation and Tsinghua University.

Applicants attach herewith Terminal Disclaimers (form PTO/SB/26) in compliance with 37 C.F.R. 1.321(c), which disclaims the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of U.S. Pat. No. 7,422,703. Applicants respectfully submit that the rejection of claims 35-47 on the ground of non-statutory obviousness-type double patenting is overcome by the Terminal Disclaimers submitted herewith, and request that the rejection be withdrawn.

Applicants note that the Examiner has indicated that claims 35-47 are free of prior art, and believe that the pending claims are in immediate condition for allowance.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 5145720019.00. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 18, 2009

Respectfully submitted,

Electronic Signature: /Jenny J. Yeh/
Jenny J. Yeh

Registration No.: 60,610
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(650) 813-4080